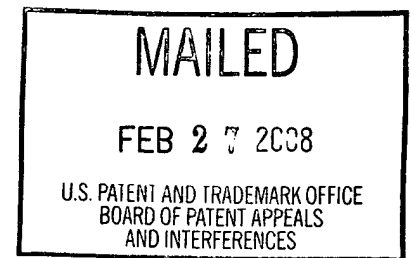


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WALTER L. RAINES

Application No. 10/628,819



CORRECTED ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on January 28, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

On February 21, 2008, An Order Returning Undocketed Appeal to Examiner was entered by the undersigned to clarify the status of the claims to be applied in the rejection. However, there were errors in that Order. The February 21, 2008 Order is herein vacated and the corrected Order is enclosed within.

On October 5, 2005, appellant filed an amendment amending claims 1, 3, 5, 6, 18, and 19; claims 13 and 14 were cancelled. The Final Rejection was mailed

Application No. 10/628,819

December 29, 2005 rejecting claims 1-12 and 15-21. On page 2 under the heading “Claim Rejections – 35 USC § 102” the examiner states the following:

Claims 1, 5, 16, 18 and 21, are rejected under 35 U.S.C. 102(b) as being anticipated by Ballard (6,032,137), as set forth in the previous Office Action.

On page 3 of the Examiner’s Answer (mailed November 30, 2006) under the heading Claims Rejections – 35 USC § 102 the examiner states the following:

Claims 1, 5-6, 16, 18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Ballard (6,032,137).

Clarification of the status of claim 6, which was not included in the Final Rejection, is required.

In the Final Rejection on page 3 under the heading “Claim Rejections – 35 USC § 103” the examiner states the following:

Claims 2-4, 6-12, 15, 17, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballard in view of Cruse (2002/0010659).

On page 5 of the Examiner’s Answer under the heading Claims Rejections – 35 USC § 103 the examiner states the following:

Application No. 10/628,819

Claim 2-4, 7-15, 17, and 19-20 are rejected under U.S.C. 35 103(a) as being unpatentable over Ballard in view of Cruse (2002/0010659).

Claim 6 has not been addressed and cancelled claims 13 and 14 have been included. A clarification of the claims to be applied in the rejection is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner;

- 1) for clarification of the status of claims to be applied in the rejection, and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: Patrick J. Nolan
PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PJN/eld

KENNETH L. NASH
P.O. BOX 680106
HOUSTON TX 77268-0106